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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 PATRICK WILLIAM BANKS,

11 Petitioner,

No. CIV S-05-0797 MCE EFB P

12 vs.

13 MARK SHEPARD, et al.,

14 Respondents.

ORDER

15 \_\_\_\_\_/  
16 Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28  
17 U.S.C. § 2254. On November 23, 2005, the magistrate judge then assigned to this action  
18 recommended that respondent's July 25, 2005 motion to dismiss be granted and that this action  
19 be dismissed. On January 4, 2006, the district judge adopted those findings and  
20 recommendations and judgment was duly entered in favor of respondents. On January 18, 2008,  
21 however, the United States Court of Appeals for the Ninth Circuit ordered that the judgment of  
22 this court be vacated and remanded.

23 Accordingly, it is ORDERED that

24 1. Respondent shall file and serve either an answer or a motion in response to  
25 petitioner's application within 60 days from the date of this order. *See* Rule 4, Fed. R.  
26 Governing § 2254 Cases. Any response shall be accompanied by any and all transcripts or other

documents relevant to the determination of the issues presented in the application. *See* Rules 4, 5, Fed. R. Governing § 2254 Cases.

2. Petitioner's reply, if any, shall be filed and served within 30 days of service of an answer.

3. If the response to petitioner's application is a motion, petitioner's opposition or statement of non-opposition shall be filed and served within 30 days of service of the motion, and respondent's reply, if any, shall be filed within 15 days thereafter.

4. The Clerk shall serve on the parties the form Consent to Proceed Before a United States Magistrate Judge.

Dated: April 1, 2009.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE